

CITY OF TUCSON LAND USE CODE
ARTICLE II. ZONES
DIVISION 8. OVERLAY ZONES
ENVIRONMENTAL RESOURCE ZONE (ERZ)

2.8.6 ENVIRONMENTAL RESOURCE ZONE (ERZ).

- 2.8.6.1 Purpose. These regulations are intended to recognize the value of Tucson's natural open space resources, particularly the critical and sensitive wildlife habitat of eastern Pima County associated with public monuments, forests, and preserves. These regulations relate to areas associated with Tucson's public lands and preserves, including Saguaro National Park, Coronado National Forest, and Tucson Mountain Park. It is the intent of these regulations to protect valuable habitat resources to the greatest extent possible. Development, compatible with these public resources, is allowed.

This overlay zone specifically serves to:

- A. Recognize the social, economic, environmental, biologic, and cultural importance of Saguaro National Park and Tucson Mountain Park to the city of Tucson.
- B. Buffer Saguaro National Park and Tucson Mountain Park from the impacts of new development by allowing development which is compatible with preservation of critical wildlife habitat and the Park environs.
- C. Conserve certain designated washes which extend from the Parks as areas of natural and scenic resources and provide valuable wildlife habitat.
- D. Complement the City of Tucson Interim Watercourse Improvement Policy which provides for flood control, erosion mitigation, and groundwater recharge through the preservation of designated washes in natural and undisturbed states.
- E. Assist in implementing the *General Plan* policies which call for the preservation of Tucson's significant natural areas along designated watercourses where identified in adopted area and neighborhood plans. (Ord. No. 9517, §2, 2/12/01)

2.8.6.2 Applicability.

- A. *Areas Mapped.* Parcels which may contain critical riparian habitat are shown on a series of maps approved by the Mayor and Council called the Environmental Resource Zone Overlay Maps (ERZ Maps) which are an exhibit to this ordinance incorporated herein by reference and kept on file in the Planning Department and the Development Services Department (DSD). ERZ Maps will include all parcels along the subject washes which may contain riparian habitat, including those parcels that are not vacant. These maps are based on the Critical and Sensitive Wildlife Habitat Map which the Mayor and Council adopted by Resolution #15149. (Ord. No. 9392, §1, 5/22/00)
- B. *Resource Corridors.* Critical riparian habitat is associated with resource corridors along the following washes which are shown on the ERZ Maps: 1) Agua Caliente; 2) Ajo; 3) Anklam; 4) Coronado Ridge; 5) Enchanted Hills; 6) Escalante; 7) Este; 8) Greasewood; 9) Painted Hills; 10) Reyes; 11) San Juan; 12) Silvercroft; 13) Tanque Verde Creek; 14) portions of the West Branch of the Santa Cruz; 15) Camino de Oeste; 16) unnamed washes in the Flato-Franco Drainage Basin; 17) Race Track; and 18) Rincon Creek. (Ord. No. 8423, §3, 12/12/94; Ord. No. 8625; §1, 1/2/96; Ord. No. 8659, §1, 3/4/96; Ord. No. 8839, §1, 3/17/97; Ord. No. 8868, §1, 5/5/97)
- C. *New Development.* New development which occurs on parcels shown on the ERZ Maps will be reviewed for compliance with these regulations.
- D. *Rezoning.* Rezoning applications for parcels adjacent to the washes listed above, but not shown on the ERZ Maps, are subject to these regulations.

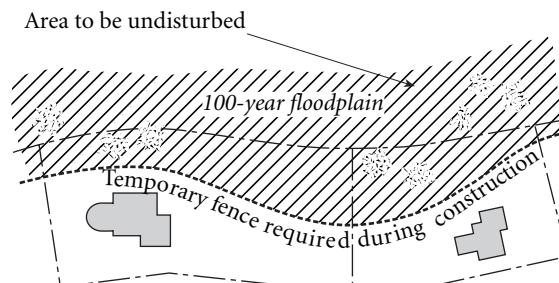
- E. *Approved Subdivisions.* Where a recorded plat shown on the ERZ Maps is resubdivided, it must comply with these regulations.
- F. *Annexation.* As annexation occurs, additional resource corridors or extensions of resource corridors may be added to the ERZ Maps.

2.8.6.3 Exceptions. These regulations do not apply to the following.

- A. Any single-family residence or other development existing as of July 3, 1990, or any expansion of up to twenty-five (25) percent of either an existing residence or other development.
- B. Any lot or parcel to be developed with one (1) single-family residence where all development and the residence and any accessory structures are located outside of the critical riparian habitat area.
- C. Any subdivision which was recorded prior to August 3, 1990, as long as:
 - 1. Substantial construction occurs within five (5) years after August 3, 1990, and
 - 2. Construction occurs in accordance with the approved plat.
- D. Where these regulations affect a parcel which is also subject to the Hillside Development Zone regulations, these regulations do not apply as long as there is no encroachment into the one hundred (100) year floodplain.

2.8.6.4 Review and Approval Required. Two (2) options are available for development under these regulations.

- A. *No Encroachment in Floodplain.* Where the owner of a lot or parcel affected by these regulations chooses to leave the one hundred (100) year floodplain undisturbed, the Environmental Resource Zone (ERZ) does not apply except that temporary fencing will be placed between the project site and the floodplain area as provided in Sec. 2.8.6.6.B; where permitted by the floodplain ordinance, development in this floodplain area is allowed as provided in Sec. 2.8.6.6. (See Illustration 2.8.6.4.A.) (Ord. No. 9138, §1, 10/5/98)



2.8.6.4 .A No Encroachment in Floodplain (ERZ)

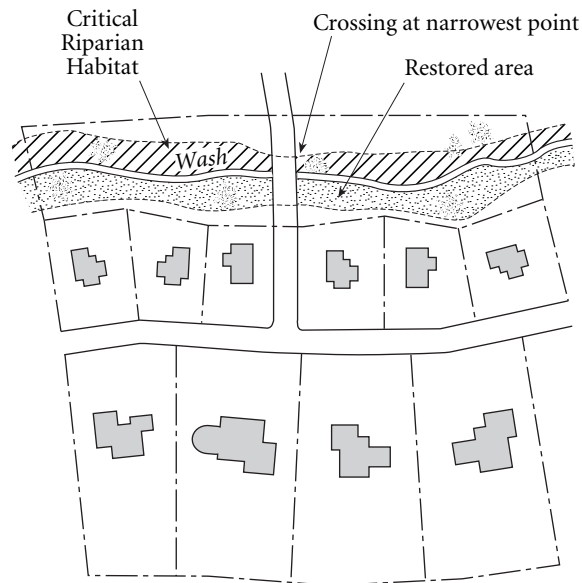
- B. *Study of Resource Corridor.* Where the owner of a lot or parcel affected by these regulations chooses to do a study of the resource corridor, a development submittal containing the following information is provided in accordance with submittal requirements of the Tucson Code, Chapter 23A, Sec. 2.2.3. (Ord. No. 9392, §1, 5/22/00)

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1. Submittal material will include an Environmental Resource Report as established in Development Standard 2-13.0. This Report presents a study of the resource corridor and documents locations of the resource corridor and critical riparian habitat.
2. If preservation of the critical riparian habitat cannot be accomplished as provided in these regulations, the submittal will include a mitigation plan as required in Sec. 2.8.6.5.D.
3. Permits for grubbing, grading, construction, or any other improvements will not be issued until all applicable requirements of Sec. 2.8.6.5 and Sec. 2.8.6.6 are met.

2.8.6.5 Development Regulations.

- A. *Preservation of Critical Riparian Habitat.* Preservation of one hundred (100) percent of critical riparian habitat areas within the resource corridors for parcels shown on the ERZ Maps is required, except as provided in Sec. 2.8.6.4 and Sec. 2.8.6.6. The critical riparian habitat area may be included as part of any required open space on the site.
- B. *Residential Development.* Residential development of four (4) or more dwelling units is allowed only as provided in Sec. 3.6.1, Residential Cluster Project (RCP), except as provided in Sec. 2.8.6.3.B. Use of the RCP provides for the maximum amount of critical riparian habitat preservation while preserving density options.
- C. *Nonresidential Development.* Nonresidential development is allowed based on underlying zoning.
- D. *Mitigation Plan.* Where preservation of the critical riparian habitat area cannot be accomplished as provided in these regulations, the owner is required to submit a mitigation plan, which will be reviewed in accordance with Chapter 23A, of the Tucson Code, Sec. 2.2.3, containing the following. (Ord. No. 9392, §1, 5/22/00)
 1. A statement of findings as to why one hundred (100) percent preservation of the critical riparian habitat area cannot be accomplished.
 2. The plan will document the specific impact of the development on existing critical riparian habitat areas within the resource corridor.
 3. The mitigation plan will present the techniques considered to lessen the impacts of the development on the critical riparian habitat areas. The techniques employed by the development project should protect remaining critical riparian habitat and restore critical riparian habitat areas disturbed during construction. This may be done through clustering development away from substantial amounts of critical riparian habitat, enhancement of degraded critical riparian habitat areas through revegetation or restoration, or other means appropriate to the type of project. (*See Illustration 2.8.6.5.D.3.*)



2.8.6.5.D.3 Mitigation Options

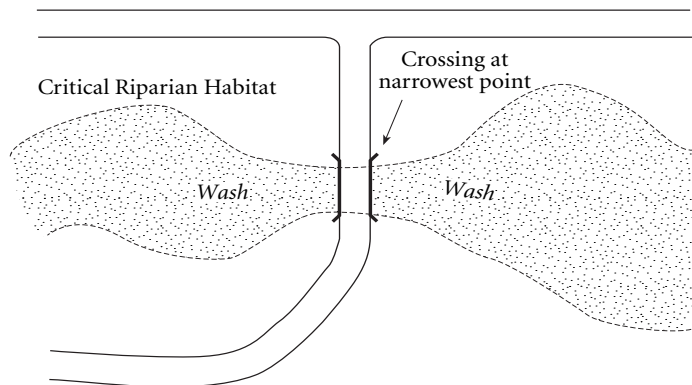
4. The plan will provide for one hundred (100) percent restoration of the critical riparian habitat area disturbed during construction as detailed in Sec. 2.8.6.6.A.6, Sec. 2.8.6.6.A.7, and Sec. 2.8.6.6.A.8.
 5. In reviewing the statement of findings and the mitigation plan, such factors as the amount, quality, and predisturbance condition of the critical riparian habitat within the resource corridor; the contiguity of the critical riparian habitat; the presence of any endangered species; the upstream or downstream characteristics of the designated wash; the alternatives to the layout and design of the project; and any other pertinent factors relating to the proposed development or the critical riparian habitat that may be provided by the owner and the reviewing parties will be taken into consideration. (Ord. No. 9138, §1, 10/5/98; Ord. No. 9392, §1, 5/22/00)
- E. *Temporary Fencing Required.* No grubbing, grading, or construction will occur on a project site which includes areas designated to be retained in a natural state, until those designated areas are temporarily fenced.
- F. *Inspection of Fencing.* All temporary fencing will be field inspected before any construction on the site begins. Fencing will be removed only on completion of construction. (Ord. No. 9392, §1, 5/22/00)

2.8.6.6 Standards for Roadway/Utility Encroachment.

- A. *Standards.* The following standards are required as part of the mitigation plan, where applicable. They are also required for any allowed encroachment into critical riparian habitat areas. Encroachment which may be allowed is limited to utilities, roadway improvements, walkways, or bike paths. (Ord. No. 9138, §1, 10/5/98)

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1. Roadway, bike path, and walkway improvements and utility encroachments into critical riparian habitat areas will be limited and approved only if there are no other alternatives in the design of the project. Where allowed, roadway, bike path, and walkway improvements and utility encroachments will cross critical riparian habitat areas, not run parallel to the critical riparian habitat.
2. Where roadway, bike path, and walkway improvements are allowed to encroach into critical riparian habitat areas, they are allowed only at the narrowest point of the critical riparian habitat. (See *Illustration 2.8.6.6.A.2.*)



2.8.6.6.A.2 Riparian Crossing

3. All utilities in critical riparian habitat areas will be located underground; utilities will be placed either along roadway, bike path, or walkway improvements or within approved easements.
4. Any roadway, bike path, or walkway improvement which impedes the movement of wildlife must be constructed in such a manner as to provide means for safe and accessible passage. Improvements or encroachments into critical riparian habitat areas should be constructed to minimize disruption of vegetation and critical riparian habitat. Where culverts are used, they should be box culverts a minimum of six (6) feet in height.
5. Where a roadway, walkway, or bike path improvement or utility encroachment occurs within the critical riparian habitat area, revegetation is required for any area disturbed because of such construction.
6. Revegetation should include plant material salvaged from the site.
7. Revegetation should recreate the critical riparian habitat through the planting of trees, shrubs, and seed mix native to the site and be equal to the predisturbance plant density, diversity, and volume on the net site.
8. A maintenance program is required for revegetated/restored or enhanced areas so that plant material is replaced as needed.

- B. *Temporary Fencing Required.* No grubbing, grading, or construction will occur on a project site which includes areas designated to be retained in a natural state until those designated areas are temporarily fenced.
- C. *Inspection of Fencing.* All temporary fencing will be field inspected before any construction on the site begins. Fencing will be removed only on completion of construction. (Ord. No. 9392, §1, 5/22/00)

2.8.6.7 Standards for Fences, Walls, and Exterior Lighting. The following will be reviewed as provided in Sec. 2.8.6.5.

- A. *Fences and Walls.* Neither fences nor walls will be allowed which impede wildlife movement through designated critical riparian habitat areas except for temporary fencing. If barbed wire fencing is used, the bottom and top wire must be barbless; bottom clearance of at least eighteen (18) inches from the ground is required.
- B. *Exterior Lighting.* Lighting sources will be confined to wall-mounted fixtures or standards a maximum of forty-two (42) inches in height, spaced to create pools of light rather than a saturated condition. Neither high-pressure sodium nor mercury vapor lighting will be used. All lighting sources will be shielded to reduce dispersed light.

2.8.6.8 Variances and Appeals.

A. *Variance Requests.*

- 1. The Development Review Board (DRB) shall review all requests for variances from ERZ regulations as provided in Sec. 5.1.8.3.F and shall forward its recommendations in accordance with Sec. 5.1.8.2.F.
- 2. If the City Engineer or designee, a notified property owner, or the applicant for the variance requests consideration of stormwater management issues related to the variance, the Stormwater Technical Advisory Committee (STAC) may review the variance request concurrently with the Development Review Board (DRB) and may provide written or oral testimony at the public hearing for the variance request. Any such testimony must address the required findings. (Ord. No. 9392, §1, 5/22/00)

(Ord. No. 9179, §1, 12/14/98)

B. *Appeals of the Decision on the Mitigation Plan.*

- 1. Appeals of the Development Services Department (DSD) Director's decision on the mitigation plan are reviewed by the Development Review Board (DRB) as provided in Sec. 5.4.4.3.C and in accordance with Sec. 5.1.8.3.E if the DRB did not review the application prior to the DSD Director's Decision. The DRB will forward a recommendation to the Mayor and Council in accordance with Sec. 5.1.8.2.F. (Ord. No. 9392, §1, 5/22/00)
- 2. The Mayor and Council shall decide appeals in accordance with Sec. 5.4.4.3, Type III Appeal Procedure, based on the record and on any recommendations received from the DRB.

(Ord. No. 9179, §1, 12/14/98)

- C. *Proposed Land Use Code (LUC) Amendments.* The STAC may review all proposed amendments to this Section and may provide written conclusions and recommendations to the Planning Commission and the Mayor and Council prior to public hearings on the proposed amendments. (Ord. No. 9374, §1, 4/10/00)